

MT LEGISLATIVE HISTORY

Chapter 312 1973

Bill (H) 352 S _____

Original bill & hist. ____C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) FEB 1 ____C

Hearing Date(s) MAR 1 ____C

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Date Out _____C

____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

43rd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB 352 Bell	Relating to exemptions for inheritance tax purposes.	1/22	2/1		2/1	DO PASS	Signed by Governor
HB 354 Wicks	Increases license tax on cement dealers; limiting the imposition of tax to sales or uses within the state of Montana.	1/22 2/21	2/5	2/21 - referred back to committee Put into subcommittee on 2/26.	2/20 3/5	DO NOT PASS DO NOT PASS	Killed on 2nd Reading
HB 359 Booth, Turner, H. Al	Provides a means by which counties could determine the existence & location of taxable property for assessment purposes.	1/22	2/14		2/14	As Amended, DO PASS	Indefinitely Postponed
HB 361 Bell, Bardanouve	Exempts retirement income of military personnel & policemen & firemen retirement benefits inc. from adjusted gross inc.	1/23					
HB 365 Norman	Forbids beer wholesalers from selling beer to the public.	1/23	2/12 2/12		2/14	As Amended, DO PASS	Signed by Governor
HB 370 Edland	Allows individual taxpayer an automatic 2 mo. extension of time for filing income tax returns.	1/23	2/3		2/3	DO PASS	Killed in Senate

February 1, 1973

TAXATION COMMITTEE (Hearing on House Bills 346 & 352)

The meeting was called to order by Chairman Robert D. Watt at 12 noon with fourteen members present (Absent, Burnett).

Representative John Hall explained the bill he sponsored, HB three-hundred forty-six (346) as one that would require the clerk of the district court to pay estimated inheritance tax collections to the State Department of Revenue instead of to the County Treasurer. There being few questions from the committee, Rep. Hall proceeded to explain the other bill he sponsored, HB three-hundred fifty-two (352) which relates to the exemptions for inheritance tax purposes, by limiting the inheritance tax exemption available to "adopted and mutually acknowledged children" to "minor adopted and mutually acknowledged children" and by allowing widowers the same inheritance tax exemption as widows. Tom Stone from the Department of Revenue spoke briefly in favor of the bill, and made reference to two changes the bill proposes as being on page four, lines sixteen and nineteen. Allen Kolstad asked Rep. Hall if there were an effective date written into the bill, to which Mr. Hall answered there was not; therefore, the effective date would be July 1, 1973. This concluded the formal hearing at 12:10 p.m.

Dan Yardley, chief sponsor of HB three-hundred seventeen (317) moved that it do pass, and claimed that the bill is directed mainly toward those people who are self-employed. Conrad Lundgren asked if the bill would conform to the federal government, to which Rep. Yardley responded that this would only necessitate estimations two times per year while the federal insists upon four times per year. Thomas Towe then stated that his objection is to the proposed nine percent (9%) penalty in the bill, while the federal penalty is six percent (6%) and he felt it should conform to the federal regulations in this respect. Gorham Swanberg concurred with Mr. Towe's feeling concerning the matter, and further stated that he objects to the final estimation by a person being made two months in advance of the actual end to the year, and that an accurate estimation that far in advance would often times be an impossible task especially for those persons who are self-employed, as unforeseen business dealings could come up at the last minute so to speak. He would propose that if the committee does wish to act on the bill, that it be changed to the six percent (6%) and also the final date be extended on which an estimation would be made. Rep. Tierney felt the committee has a good deal of time to make a decision concerning the bill, and that it should amend the proposed bill to conform more with the federal law dealing with the same subject. Chairman Watt asked the chief sponsor, Dan Yardley, if he

(CONT.)

February 1, 1973

(CONT.)

would wish to pass the bill for the day, and Mr. Yardley proceeded to make a motion to that effect which passed unanimously.

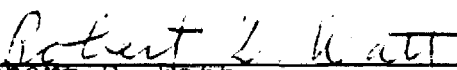
The committee next moved to action on HB three-hundred forty-six (346). Harrison Fagg moved that the bill do pass, which was seconded by Conrad Lundgren, after which the committee passed the bill unanimously.

John Tierney then moved HB three-hundred fifty-two (352) do pass, and Robert Stephens seconded the motion. Before final action was taken, however, Mr. Tierney stated the bill was primarily a housekeeping matter, and that it would put the law into compliance not only with present practice but also with the federal law. The motion carried and HB 352 was unanimously passed out of committee.

Chairman Watt stated that he has reserved the highway auditorium for Tuesday, February 6 at 11:30 a.m., to hear all bills received thus far in committee relating to coal. He further stated the business for tomorrow's meeting would be to hear HB three-hundred fourteen (314) sponsored by Walter Ulmer. Some discussion ensued among committee members as to the possibility that Tuesday would not be a good day for the large scheduled hearing, since some of the coal bills have not yet been received from printing; however, it was finally decided that because the hearing had already been scheduled and certain people have made plans it would be better to stick with the original details, especially since the hearing will be a general one covering the entire subject of coal and not necessarily pertaining to particular bills. It was further decided that other hearings may be scheduled in the future to deal with the subject.

Walter Ulmer requested that since the committee hears only one bill tomorrow, that he be allowed to present his other bill number three-hundred thirty-two (332) on the same day; therefore, the Chairman advised the members that they would be hearing House Bills 314 & 332 tomorrow, February 2. The committee was also advised that there will be a meeting Saturday, February 3 at 8 a.m. which will be to consider HB's 370, 420, 462, and HR #7.

There being no further business, the meeting adjourned at 12:30 p.m.


Robert D. Watt,
Chairman

NAME Paul A. Smith BILL NO. 300
ADDRESS 1000 1st Ave DATE 2-1-23

WHOM DO YOU REPRESENT? _____

SUPPORT? ✓ OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME TOM STONL

BILL No. 352

ADDRESS Mitchell bldg, Helena

DATE 2-1-73

WHOM DO YOU REPRESENT? DEPT. OF REVENUE

SUPPORT? ☒ OPPOSE? ☐ AMEND? ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BILL NO. HOUSE	ENTERED COMM.	COMMITTEE ON TAXATION							BE NOT CONCURRED IN
		OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON- CURRED IN	BE CONCURRED IN AS AMENDED		
332	2/9-2/23	2/22-2/27				x - x			S by G
334	2/24	3/1				x			
346	2/24	3/10					x		S by G
347	2/7	2/22						x	Killed
166		3/16				Minority		Majority	
97		3/15					x		
352	2/8	3/1				x			S by G
359	2/21	3/6					x		
370	2/4	2/27						x	Killed
375	2/24	3/6				x			S by G
407	2/21	3/6				x			S by G
420	2/10	2/27				x			S by G
462	2/27	3/6				x			Killed
489	2/24	3/16							Hold
506	3/3	3/10						x	Killed
509		3/16					x		
517		3/16					x HOLD		Hold
531		3/15						x	Killed
532	3/3	3/10					x		
519	3/1	3/8				x			
530	2/26	3/6						x	Killed
513	3/3	3/10				x			

The Senate Committee on Taxation met in room 415 of the State Capitol on Thursday, March 1, 1973 at 8 A. M. Roll call was taken and the meeting was called to order at 8:03 by Senator Nees, Chairman.

House Bill 329 was explained by Jack Rehberg, Montana Petroleum Association and Judson D. Sweet, Oil and Gas Conservation Board. Mr. Sweet gave a statement attached as exhibit 1.

There were no opponents of the bill:

House Bill 254 was explained by Representative Watt as a bill to make the temporary tax a permanent one. Mr. Holding, an attorney from Missoula, and Jeff Brazier, Western Mining Association spoke against the bill.

House Bill 346 was explained by Representative Hall, there were no further proponents, and no opponents.

House Bill 352 was explained by Representative Hall.

Representative Watt spoke for a few minutes as to what was developing in the House Taxation Committee. He said it was his understanding through both his interpretation and his working with the new Constitution that this was a continuous session until March of 1974 and that in killing a bill it was not able to bring it back next year, but that by holding it in committee for the year it could be brought back at that time and either acted upon favorably or killed. He said that he was doing this to the Senate bills in his committee and would like to have the Senate extend this same courtesy to his House Committee.

A motion by Senator Turnage, seconded by Senator McKeon that House Bill 352 be concurred in. Voted and passed.

A motion by Senator Turnage, seconded by Senator McKeon that House Bill No. 346 be concurred in, voted and passed.

A motion by Senator McOmber, seconded by Senator Mathers that House Bill 329 be concurred in. Voted and passed.

A motion by Senator McKeon, seconded by Senator Turnage that House Bill 254 be concurred in.

A substitute motion by Senator Mathers, seconded by Senator Klindt that House Bill 254 be not concurred in. Voted and passed.

paying or entitled thereto by the *state department of revenue* based upon the filing of a properly documented claim by the clerk of court."

Approved: March 15, 1973.

CHAPTER NO. 317

An Act Amending Section 91-4414, R.C.M. 1947, Relating to Exemptions for Inheritance Tax Purposes, by Limiting the Inheritance Tax Exemption Available to "Adopted and Mutually Acknowledged Children" to "Minor Adopted and Mutually Acknowledged Children"; and by Allowing Widowers the Same Inheritance Tax Exemption as Widows.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 91-4414, R.C.M. 1947, is amended to read as follows:

"91-4414. **Exemptions from first \$25,000.** The following exemptions from the tax are hereby allowed, the exemption allowed to each person, institution, association, corporation and body politic to be taken out of the first twenty-five thousand dollars passing by any such transfer to such person, institution, association, corporation or body politic:

(1) Transfers totally exempt. All property transferred to the state or any of its institutions, or to municipal corporations within the state for strictly county, city, town, or municipal purposes, shall be exempt. All property transferred to any society, corporation, institution, or association, in trust or otherwise, or to any foundation or trust, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, shall be exempt, if any of the following conditions is present:

(a) The society, corporation, institution, foundation, trust, or association is organized solely for religious, charitable, scientific, literary, or educational purposes under the laws of this state or of the United States;

(b) The property transferred is limited for use within this state;

(c) In the event that the society, corporation, institution, foundation, trust, or association is organized or existing under

the laws of another state of the United States or of a foreign state or country, at the date of the decedent's death any one of the following conditions existed:

(i) The other state, foreign state, or foreign country did not impose a legacy, succession, or death tax of any character in respect to property transferred to a similar society, corporation, institution, foundation, trust, or association organized or existing under the laws of this state;

(ii) The laws of the other state, foreign state, or foreign country contained a reciprocal provision under which property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country was exempt from legacy, succession or death taxes of every character, if the other state of the United States or foreign state or country allowed a similar exemption in respect to property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country;

(iii) The society, corporation, institution, foundation, trust, or association owns or operates a hospital for crippled children within the United States, primarily practicing orthopedics, to which crippled or afflicted children from the state of Montana are, without discrimination, gratuitously admitted and treated and the property transferred is limited for use at such hospital.

(2) \$20,000; \$5,000; \$2,000 exempt, when. Property of the clear value of twenty thousand dollars (\$20,000), transferred to the wife or to the husband of the decedent, five thousand dollars (\$5,000) transferred to each minor lineal issue of the decedent, or any *minor* child adopted as such in conformity with law, or any *minor* child to whom such decedent for not less than ten (10) years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth (15) birthday, and was continuous for ten (10) years, or any *minor* lineal issue of such adopted or mutually acknowledged child, and two thousand dollars (\$2,000) transferred to each of the lineal issue who have attained majority and to each of the other persons *who have attained majority* described in the first subdivision of section 91-4409 shall be exempt. Such exemption to the *wife or husband of the decedent* shall include all statutory dower, *curtesy* and other allowances. Any child of the decedent shall be entitled to credit for so much of the tax paid by the *wife or husband* as applied to any property which shall thereafter be transferred by or from such *husband or wife* to any such

child, provided the *husband or wife* does not survive said decedent to exceed ten years.

(3) \$500 exempt, when. Property of the clear value of five hundred dollars transferred to each of the persons described in the second subdivision of section 91-4409 shall be exempt.

(4) Property without the state exempt, when. No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located and which tax has actually been paid, secured or guaranteed, provided such property is not without this state temporarily nor for the sole purpose of deposit or safe-keeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state."

Approved: March 15, 1973.

CHAPTER NO. 318

An Act to Permit Newsmen to Refuse to Disclose News Sources;
Amending Section 93-701-4, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-701-4, R.C.M. 1947, is amended to read as follows:

"93-701-4. **Persons in certain relations cannot be examined.** There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

1. A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other; nor to a criminal action or proceeding for a crime committed by one against the other.

2. An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

3. A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient.

5. A public officer cannot be examined as to communications made to him in official confidence, when the public interests would suffer by the disclosure.

6. Any person engaged in teaching psychology in any school, or who acting as such is engaged in the study and observation of child mentality, shall not without the consent of the parent or guardian of such child being so taught or observed testify in any civil action as to any information so obtained.

7. A counselor, psychologist, nurse, or teacher, employed by any educational institution, cannot be examined as to communications made to him in confidence by a duly registered student of such institution, provided however, that this provision shall not apply where consent has been given by the student, if not a minor, or if he is a minor, by the student and his parent or legal guardian.

8. *A publisher, editor, reporter or other person connected with or employed upon a newspaper, or by a press association or wire service, or any person who has been so connected or employed, cannot without his consent be examined as to any communication made to him in confidence for the purpose of proper publication nor shall he be adjudged in contempt by a court, the legislature or any administrative body for refusing to disclose the source of any information procured while so connected or employed for publication and published in a newspaper.*

Nor can a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, without his consent be examined as to any communication made to him in confidence for the purpose of proper publication nor shall he be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television."

Approved: March 15, 1973.